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Towards deliberative and pragmatic co-management: a comparison between inshore fisheries authorities in England and Scotland

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ABSTRACT

In seeking to answer the question ‘who should be included in fisheries co-management?’, a constructive critique of the existing co-management literature is provided by filling the gaps of Habermas’s deliberative theory of democracy with Dewey’s pragmatism. Three conditions for ensuring democratic co-management are extrapolated from the theories: actors’ authority over decision making (empowerment), actors’ diversity (membership), and the right to self-nomination (procedures for external inclusion). The theoretical insights developed are supported with two examples of co-management institutions for inshore fisheries in the UK: Scottish Inshore Fisheries Groups (IFGs) and English Inshore Fisheries Conservation Authorities (IFCAs).

KEYWORDS Procedural justice; co-management; deliberative theories; pragmatism; inshore fisheries institutions; UK

Introduction

Both academic literature and policy forums have celebrated the co-management of environmental resources for increasing legitimacy and effectiveness, so democratising environmental governance. Fisheries co-management is in many ways the archetypal co-management case study (see, e.g., Pinkerton 1989, Wilson *et al.* 2003, Bown *et al.* 2013). This is because the overexploitation of fisheries resources is often linked to the commons character of the sea, to unclear property rights regimes, to governments’ finite resources, and to monitoring and enforcement challenges. This has led numerous academic and practitioner communities in the past three decades to advocate and implement institutional solutions based on the sharing of responsibility between government and local actors (e.g. McCay and Acheson 1987, Pinkerton 1989, Pomeroy and Berkes 1997, Plummer and FitzGibbon 2004). In response, many countries around the

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world have implemented policy solutions towards fisheries co-management, particularly in small-scale fisheries (Wilson *et al.* 2003, Borrini-Feyerabend *et al.* 2004). Over the years, there have been many assessments of co-management using case studies to highlight examples of success and failure, and to make conceptual constructive criticisms, strengthening the co-management approach theoretically and empirically. Here, we engage with these conceptual critiques and develop them further by shedding light on the question of who should be involved in fisheries co-management. We do this with reference to Habermasian deliberative democracy and Deweyan political pragmatism, both of which are broadly compatible with a process-oriented approach to co-management.

We support these theoretical insights with reference to two examples of co-management institutions for inshore fisheries in the UK: Scottish Inshore Fisheries Groups (IFGs) and English Inshore Fisheries Conservation Authorities (IFCAs). Comparing the two inshore fisheries institutions shows that, though not perfect, IFCAs constitute a best-practice example for IFGs. Thus, we offer a theoretical contribution by rethinking co-management drawing on the insights of Habermas and Dewey, as well as policy lessons for fisheries co-management using the comparison between IFCAs and IFGs.

Co-management of environmental resources

In recent decades, scholars have come to view co-management as a key element for both legitimate and sustainable governance of natural resources. The literature on co-management is vast and varied, but the key definitional trait of co-management is local empowerment, achieved through the sharing of power and responsibility for environmental governance between the state and local resource users (Berkes and Preston 1991, Berkes 2002).

In pushing for the integration of local resource users' knowledge and perspectives into decision-making processes, co-management allows actors to take into account the richness of local knowledge (Jentoft *et al.* 1998, Armitage *et al.* 2011), and can also increase buy-in from local resource users. This makes enforcement of regulations easier, therefore improving environmental outcomes (Sandström *et al.* 2014). However, the aim of co-management scholars is not only functional, as the importance of co-management has been emphasised from a normative and political perspective. We focus here on this latter angle. From a normative perspective, participation in management becomes a right and a tool of empowerment for otherwise marginalised voices, rebalancing unequal power relationships by broadening the interest groups involved in decision making (Huitema 2009).

However, one risk when thinking about co-management is to simplify the concept of the 'local resource user'. This is particularly problematic

when it comes to local institutions, with the idea of local resource users is often used interchangeably with, *inter alia*, private (as opposed to public) actors, and with the term – and idea of – a community (Carlsson and Berkes 2005).

Scholars have made critiques of this kind since the late 1990s (Agrawal and Gibson 1999). They point out the problems caused by this simplification of key concepts, discussing the many faces of communities and state and the actors in between. They suggest that co-management is instead best conceptualised not as a formal inter-scalar partnership, but as an iterative, collaborative problem solving *process* (Plummer and Baird 2013). Taking a process approach to studying co-management, Carlsson and Berkes (2005) argue, means not just accepting the necessity of management collaboration between the state and local resource users, but also looking more closely at the participants involved, the linkages between them, and the problems they are trying to solve.

Many studies of co-management have traditionally equated the ‘local user’ with those who have a direct economic interest in the resource, ignoring the question of whether a wider range of actors should potentially be included at the local level. Mikalsen and Jentoft (2001) point this out in reference to local fisheries management in Canada, Norway, and the USA. Fisheries co-management, they argue, is traditionally based on a too-narrow conception of who has an interest in the resource, recognising only direct, economically affected resource users – fishers – as having the right of inclusion in making collaborative management decisions. Mikalsen and Jentoft (2001) define this direct, economic approach to stakeholder inclusion as ‘corporatist’. Such a corporatist approach consists in privileging a particular user group (fishers) over others in environmental decision making, circumscribing therefore the *demos*. Using stakeholder theory, they suggest a number of other interested groups who should be included, from fish processors and indigenous peoples to consumers of the final product.

Following Mikalsen and Jentoft (2001), we argue that the constitutional question of who should be included in fisheries co-management deserves more attention in the fisheries co-management literature, and a stronger theoretical grounding.

Co-management and public good: who should have a stake in fisheries management?

The corporatist practice of including only direct resource users in the co-management process is based on a very narrow idea of who is, and who should be, involved, i.e. only those with a direct economic stake in the management of the natural resource in question. The tradition of

seeing fishers as the only relevant interests in local fisheries management is particularly common, and is likely couched in the physical nature, and legal history, of the sea. The ocean has traditionally been the archetypal arena of open access, and is a vast, remote *mare nullius* to many (Steinberg 2001).

In recent years, however, there has been a shift in the attitude toward the relationship between human communities and the sea. This has stemmed partly from resource scarcity and fears about the threat to oceanic ecosystems and environments, and partly from the legal reconfiguration of the ocean, especially with the 1982 United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS solidified the relationship between wild fish and the state, granting 200 nm of national jurisdiction over living oceanic fish through exclusive economic zones, and opening up new legal questions about our collective rights and responsibilities over the marine environment.

Co-management institutions: how should different actors be chosen?

The procedural question of who co-managers are – and who decides who co-managers are – is therefore vital for democracy. This is of course a central question of political democratic theory, but it remains underexplored in the fisheries co-management literature.

As the introduction mentioned, Mikalsen and Jentoft (2001) have attempted to discuss the important issue of inclusion in co-management of marine resources. They point out the lack of engagement with constitutional level questions in the co-management literature and seek to answer the vital ‘who’ question when it comes to co-management. Using stakeholder theory as developed in the field of corporate governance, the authors consider the question, *inter alia*, of stakeholder identification. To decide who is a legitimate stakeholder, they propose the drawing of a stakeholder map that identifies different stakeholder types and the legitimacy of their claims.

Although Mikalesen and Jentoft’s paper is one of the first in the co-management literature to address the key issue of wider democracy and inclusion explicitly, they offer no discussion of the constitutional politics of how this stakeholder map is drawn, and by whom. We argue that this is a vital aspect of the democratic process, with significant implications for both procedural justice and the substantive environmental outcomes of subsequent management decisions. Some actor(s) must make the decision as to who gets a say, and the way they go about it will have ramifications throughout the management process. Here, we provide insights into this by forging a link between co-management, deliberative democracy, and pragmatism.

Deliberation and democracy

A key literature that has significantly influenced how we think about political participation is deliberative democracy, i.e. democracy as produced by rational communication of actors under circumstances of inclusive equality. Deliberative democracy departs from a liberal understanding of democracy: i.e. democracy as a competitive process where pre-existing, individual, and fixed interests are balanced and aggregated in legislative and policy processes to satisfy the majority. Habermas's proceduralist approach, based on communicative reason, figures as one of the most influential strands of deliberative democracy (Habermas 1987, 1996).

For Habermas, communicative reason, in contrast to practical reason, 'is inscribed in the linguistic telos of mutual understanding', rather than based on substantive prescriptions (Habermas 1996, p. 4). Habermas argues that at the root of deliberative democracy there should be institutional arrangements allowing all those affected by particular decisions to assent as participants in rational discourse.

'According to discourse theory, the success of deliberative politics depends not on a collectively acting citizenry but on the institutionalization of the corresponding procedures and conditions of communication' (Habermas 1996, p. 298). The essential aspects of deliberative democracy are therefore procedural, regarding the setting of conditions facilitating deliberation.

Habermas's deliberative theory explicitly addresses the importance of inclusion for the democratic outcomes of the political process, stressing that for a deliberative process to be legitimate, all potentially affected actors should be included (Habermas 1990). Habermas defines 'those affected' as 'anyone whose interest are touched by the foreseeable consequences of a general practice regulated by the norm at issue' (Habermas 1996, p. 107). This is important because the consensus-building nature of deliberation, and the vital public legitimacy it aims to produce, depends upon including all relevant views. Inclusion is therefore a fundamental principle of deliberative democracy, giving to the procedural approach a substantive starting point.

Wide and varied inclusion makes the identification of who should be involved a difficult task, and Habermas does not discuss the practical means by which all relevant deliberants should be identified and nominated. If those with a right to contribute to deliberation are so disparate, how should these groups be identified? It is easy to imagine that the powerful (yet unrecognised) actor drawing the stakeholder map that Mikalsen and Jentoft (2001) recommend might overlook (either through ignorance or for specifically political reasons) key actors who have a justifiable claim for inclusion in decision making, and whose perspectives are vital for holistic and

legitimate environmental governance. Young (2000) terms this problem as 'external exclusion' – the purposive or inadvertent exclusion of segments of society from decision-making fora. These segments can be, for example, women, working classes, or ethnic minorities who ought to be included but are not due to structural inequalities, i.e. inequality of powers and resources that disable their access to the deliberative process.

But even assuming structural inequalities do not exist, or that there is a concerted effort to make sure they are not determinant of who can participate, forms of external exclusion can nevertheless manifest themselves. This is because it may be difficult for the individuals designing the co-management institution to identify who has a justifiable claim to be considered a participant. To address such practical aspects of external inclusion, we therefore consider the pragmatist philosophy of John Dewey, and his particular understanding of the constitution of the public.

Deweyan approaches to public participation

A number of writers view the pragmatist philosophy of Dewey as offering potential solutions to the pitfalls of deliberative democracy (Bohman 2004, Caspary 2008, Pappas 2008). McAfee (2004) argues that adopting a Deweyan pragmatist approach means approaching deliberation as the integration of multiple, partial perspectives on a problem to identify a solution that might work. This approach is problem focused, and explicitly seeks (short term and open to change) solutions, rather than ideals.

This 'integrative' model of deliberation, MacAfee argues, more accurately represents the way people actually think about and approach politics – as a range or series of problems to be solved. Deliberators are not expected to be selfless, moral individuals, working from a 'view from nowhere' outside of their own positions in order to achieve inter-subjective truths. Instead, through the self-representation and the consideration of others' different personal concerns, deliberators learn about the multiple facets of any given problem, and the potential outcomes for all of any suggested solution. The consideration of the potential effects of suggested solutions across multiple user groups should create a practical, embedded public consciousness among deliberators that did not need to exist prior to the deliberation process.

Such a pragmatic approach to deliberation is explicitly Deweyan because it is based on his idea of an emergent public. A public, argues Dewey (2012), is not a pre-existing category of people that can be called upon to participate in political processes. It is instead an assembly of people called into being by the problem of being affected by actions that are beyond their individual control. Any problem with wide-ranging consequences thus

creates its own public, as people express their interest in finding an acceptable solution to that problem.

A Deweyan public, then, fits in with the modern approach to a more issue-based political engagement (Held 2004), and has a mutually constitutive relationship with the issues in question: not only is the public emergent through the deliberative, democratic process, but the process itself is emergent from the concerns of the people that spontaneously identify as a public in response to perceived problems (Marres 2007). This conceptualisation of pragmatic deliberation can both address the issue of external exclusion of members of this public, as we argue below, and also sit well with the more process-oriented approach to co-management, in which emergence and problem solving are seen as a definitional trait of success (Carlsson and Folke 2005).

If we accept, following Dewey (2012), that a public is an emergent manifestation of all those people affected by the indirect consequences of actions, then this means that an emergent public should contain all the relevant stakeholders – all those with a justifiable interest – to be included in co-management. Thus, following Dewey, we can add another key element to co-management: the right for members of the public to emerge and self-identify in response to a problem that they see as affecting them, and create of themselves an interested public. This suggests that potential co-management stakeholders should be allowed to self-nominate, rather than only being chosen by an external body.

This is necessary not just from a democratic standpoint but because full representation of an issue across the range of affected parties is a necessary prerequisite for successful substantive outcomes for deliberation. If, as McAfee (2004) argues, the personal positions of those involved in the deliberative process largely bound the solutions arrived at around the co-management table, it is important that these personal positions are as inclusive as possible, so that potential solutions can sufficiently consider all variables.

Obviously, a huge, borderless management group would be unwieldy and impractical, so some selection process from within this pool of applicants may be necessary. To ensure democratic accountability and effective deliberation, any selection should be based on the criteria that the co-management group covers as wide a range of interests as possible, and selection is founded upon the principles of transparent, publically accountable selection criteria with a duty to give public reasons for non-selection.

Therefore, from the above discussion, we can extrapolate three main elements leading to legitimate fisheries co-management: empowerment (from classical co-management literature), deliberants' diversity (from Habermas), and ways to limit external exclusion by giving the opportunity to members of the public to self-nominate (from Dewey). The sections

below discuss these three key elements of co-management in relation to inshore fisheries in England and Scotland, thereby testing the democratic potential of these institutions.

Why inshore fisheries management in England and Scotland?

To ground the theoretical points raised above, we now compare two fisheries co-management institutions in the UK: IFCAs in England and IFGs in Scotland. The (currently) partial devolution of power in the UK means that England and Scotland present a valuable opportunity for comparative analysis. We undertook this research as part of a larger project, funded by the Economic and Social Research Council, on marine governance and marine protected areas in the UK, running from 2012 to 2015.¹ The comparison is partly based on a desk-based analysis of policy documents on the IFCAs and IFGs.

The project has also involved an element of primary qualitative research including semi-structured interviews with fishermen, regulators, environmental non-governmental organisations, and statutory nature conservation bodies in selected case studies in England and Scotland in order to explore questions of marine conservation governance. As the pool of interviewees also included IFCAs and IFG representatives and the interviews touched upon, *inter alia*, institutional questions related to inshore fisheries management, we reinforced our arguments with face-to-face interviews and e-mail correspondence carried out with representatives sitting on five different IFCAs (Isles of Scilly, Sussex, Kent and Essex, Northumberland, and Devon and Severn) and three representatives covering all six IFGs. It is important to point out that this paper is primarily the outcome of desk-based analysis rather than empirical research, so that the interviewees' quotations cited below only support the desk-based work but do not constitute the main source from which the comparative analysis is drawn. To preserve the anonymity of the interviewees for ethical reasons, we have omitted names and dates of the interviews in the quotations below.

Empowerment: institutional differences between IFCAs and IFGs

The Westminster and Scottish Governments respectively established both IFCAs and IFGs with the mandate, familiar to co-management scholars, of including local actors in fisheries management. The Scottish IFGs were introduced in 2009, first running through a pilot project (Scottish Inshore Fisheries Groups 2015). Following this pilot, the Scottish Government changed some boundaries on the establishment of the IFGs proper, but the remit of the groups remained broadly the same (Scottish Inshore Fisheries Groups 2013). This remit is '[t]he development and

implementation of regional policies and initiatives relating to the management and conservation of inshore fisheries, and effects on the marine environment ... and the maintenance of sustainable fishing communities' (Scottish Inshore Fisheries Groups 2015).

In England, the Government introduced IFCAs in 2011, based on sections 153–158 of the Marine and Coastal Access Act 2009 (MCAA). IFCAs are widely aligned to the pre-existing Sea Fisheries Committees (SFCs), which had been in place to manage inshore fisheries in some areas since the 1960s (Phillipson and Symes 2010). The switch from SFCs to IFCAs included a formalisation of the national mandate of these regional groups, some boundary changes, and, most importantly, the explicit inclusion of wider ecosystem conservation in the groups' management duties and aims. Section 153 of the MCCA states that:

- (1) [IFCAs] must manage the exploitation of sea fisheries resources in that district. (2) In performing its duty under subsection (1), the [IFCA] must –
- (a) seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way, (b) seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from, or promote its recovery from, the effects of such exploitation.

There are 10 regional IFCAs around the coast of England, and six regional IFGs in Scotland. The devolution of power is significantly different for IFCAs and IFGs. Whereas IFGs can only advance management recommendations to Marine Scotland, IFCAs are statutory bodies that have the power to set local by-laws and have enforcement powers (such as criminal prosecution or financial penalties for non-compliance). Nevertheless, by-laws are not effective until confirmed by the Secretary of State (MCCA, s 153(3)), and the Secretary of State has the power to revoke and amend provisions related to any by-law (MCCA, s 159(1)). The Secretary of State, however, can do so only if he is satisfied that the provisions in question are 'unnecessary, inadequate or disproportionate', and, before doing so, he must notify the IFCA in question, as well as consider any objections it made (MCCA, s 159(2)), and may even hold a local inquiry (MCCA, s 159(3)).

Therefore, though IFCAs are not the masters of their own destiny as their decisions are subject to the approval of the Secretary of State, they have statutory powers and responsibilities that IFGs do not hold. Unlike IFGs, IFCAs also have permanent offices and members of staff. IFGs, in comparison, meet only four times annually, although they can convene time-limited subject-specific working groups, which will consider issues and make recommendations to the main group.

Deliberants' diversity: stakeholder selection in IFGs and IFCAs

Committees run both IFCAs and IFGs. The memberships of these are, however, determined differently. The Scottish Government initially chose the IFG members, but once the IFGs were established, the local groups had the power to choose any new member internally, subject to vetting by the IFG national co-ordinator (who centrally co-ordinates all IFGs). The IFG constitution, created by the Scottish Government, states that IFG membership should be limited to: representatives of fishermen's associations with a membership of at least 10 UK licenced vessels, from which group one member must fish in the IFG area (Association Members) – although IFGs do have the power to admit representatives of associations with a smaller membership should they see fit; owners, skippers, or crew of a UK-registered fishing vessel that is not a member of a fisherman's association but fishes in the IFG area (Individual Members); and, with national guidance, any other representatives of legitimate commercial fishing interests that operate in the area. As this group of local resource users then collaborates with the Scottish Government (through Marine Scotland) to suggest local management priorities, it fits into the traditional corporatist definition of co-management outlined by Mikalsen and Jentoft (2001).

Any potential co-managers have to lodge IFG applications with the local co-ordinator of the IFG in question. In the event of a refusal of membership, applicants can appeal the local IFG co-ordinator's decision to the national IFG co-ordinator. Every three years, IFG co-ordinators should review their local membership, with any member who no longer meets the membership criteria having their membership terminated. Members can appeal this decision to the national co-ordinator.² The decision-making process of IFGs is therefore an internal one, with little mechanism for external accountability.

IFCA membership, in comparison, is partly determined by local councils and partly centrally determined, with no input from the existing IFCA committee. IFCAs are thus less self-determining than IFGs are but, as we will see below, more accountable and more open to new participants. Each IFCA must have representation from any local council that is within their inshore fisheries and conservation area. These members are democratically elected councillors who are then assigned to the IFCA by the council in question. IFCAs must also have representation from those national agencies concerned with fisheries and conservation: the Marine Management Organisation (MMO), the executive body of the UK Government Department of Environment, Food and Rural Affairs tasked with managing the marine environment; Natural England (England's statutory nature conservation body); and the Environment Agency. Other prospective members self-nominate for membership; a central group including

representatives of DEFRA, the MMO, and the Secretary of State assess their application and then interview these applicants.

The MCCA, s 151(2) states that potential IFCA members should be ‘(a) persons acquainted with the needs and opinions of the fishing community of the district, and (b) persons with knowledge of, or expertise in, marine environmental matters’. Section 151.9 gives further explanation of who can self-nominate: ‘the “fishing community” means all persons with any sort of interest in the exploitation of sea fisheries resources or in fisheries for such resources; “marine environmental matters” means – (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas, or (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal environment’.

Guidelines have been developed by the MMO (2015) regarding self-nomination criteria. These guidelines are far broader than those of the IFGs, with anyone with knowledge of or interest in fishing and the environment open for consideration for IFCA membership. According to the Secretary of State for the Environment and Rural Affairs (Hansard, 4 March 2011: Column 608W), the MMO selected all IFCA appointees against three main criteria, which are pulled from a broad and inclusive basis: an active interest and involvement in the local community; a passion for making a positive difference in the local area; and excellent communication, influencing, and participation skills. The outcome of these different membership stipulations can be seen in Table 1, which lists the different interest groups represented across Scottish IFGs and English IFCAs, respectively.

Perhaps one of the most interesting products of the different limitations on membership and degree of openness to self-nomination is the large amount of

Table 1. Committee/board membership representation across Scottish IFGs and English IFCAs by sector.

Sectoral representation	IFGs	IFCAs
Commercial fishing (mobile)	✓	✓
Commercial fishing (static)	✓	✓
Recreational fishing	✗	✓
Environment	✗	✓
Marine science	✗	✓
Marine social science	✗	✓
Aquaculture	✗	✓
Archaeology	✗	✓
Marine tourism (including sailing and diving)	✗	✓
Estuarine management	✗	✓
Ports and harbours	✗	✓
Sales and processing	✗	✓

IFGs, Inshore Fisheries Groups; IFCAs, Inshore Fisheries Conservation Authorities.

Table 2. Multiple memberships across IFG co-management organisations.

Sits on 6 of 6 pIFGs	Sits on 5 of 6 pIFGs	Sits on 4 of 6 pIFGs	Sits on 3 of 6 pIFGs	Sits on 2 of 6 pIFGs
2 (18% of average IFG ex. com.)	2 (18% of average IFG ex. com.)	2 (18% of average IFG ex. com.)	2 (18% of average IFG ex. com.)	3 (27% of average IFG ex. com.)
Both national mobile gear organisations	Both regional fishing organisations	One regional fishing organisation, one national mobile gear organisation	One regional organisation, one national static gear organisation	All regional fishing organisations

Number of individuals (representing organisations) with a seat on multiple pilot* IFG executive committees. (The average size of executive committees is 11 members.)

*Two pilot IFGs have since been merged into a single IFG. Orkney operates with a management group rather than an IFG and is not included in this analysis.

representational doubling up in the Scottish local groups. In England, very few people sit on more than one local IFCA. The only instances of multiple membership relate to two MMO representatives and an EA representative whose districts encompass more than one IFCA. There is no doubling up of representatives from other interest groups. In Scotland, however, representatives of large fishermen's associations have multiple local seats, with some sitting on every single local group (see Table 2).

Limiting external inclusion: emergence of the marine public in IFCAs and IFGs

Both IFGs and IFCAs allow some measure of self-nomination to co-management. However, by strictly limiting the potential membership of IFGs to representatives of the fishing industry – and only allowing commercial fishermen, and particularly fishermen's associations, to self-nominate – the Scottish IFGs limit the true opportunity for marine publics to emerge, and the deliberative potential of the co-management institution. Instead, they take the traditional corporatist resource-user approach to co-management. This corporatist stance is particularly notable when we consider that almost all local IFGs represent the same national interest groups as well as local interests. In England, in comparison, IFCAs recognise far wider claims to participate.

The Scottish Government's *Strategic Framework for Inshore Fisheries in Scotland*, which laid the framework for IFGs in 2005 (Scottish Government 2005), recognises the validity of a broad range of stakeholders in marine management, stating that 'fishermen must be at the core of the groups. Commercial fishing activity can, however, impact on and be impacted upon by other factors. It is essential, therefore, that other stakeholders have an opportunity to be involved in the process. The nature of these stakeholders ... may include processors,

environmental interests, community members, and other marine users'. Despite this, these stakeholders are not allowed to nominate themselves to and participate in the IFG. Instead, they can only be invited onto an advisory group by the IFG's executive committee.

Although the advisory group must involve representatives of certain national organisations, such as Scottish Natural Heritage and Scottish Environmental Protection Agency, the IFG has no duty to consider the wider local community (such as local environmental interests or recreational fishers and divers); potential local stakeholders cannot self-nominate, but must be invited to join. Furthermore, the mandated role of the advisory group is weak: the constitution states that the IFG should consult the advisory group on any 'material decision', but does not specify how the materiality of a decision should be decided, or to what extent the advisory group members' opinions, once solicited, should be taken into account by the IFG committee (Scottish Government 2010).

The limited view of who can participate in co-management in the Scottish IFGs has significant democratic implications. The small *demos* allowed for by the IFG remit produces a notable 'doubling up' of power, with the same individual heads of fishing associations participating in management all around the Scottish coast (Table 2). The democratic deficit implicit in this is particularly notable if one considers that many of these groups will also have political access to policymaking processes at the national level, leading to multiple 'votes' for a small number, whilst other interested stakeholders are sidelined.

In the English IFCAs, by comparison, very few individuals hold seats on more than one IFCA, with a wider range of interests represented both within and across IFCAs in response to the different publics in different regions. According to the information the government provides for applicants, MMO-nominated members are chosen according to the breadth of their experience and their capacity to represent the wider community, something that IFCA appointees backed up:

I was appointed by the MMO [to the IFCA] as a fisherman ... I mean they wanted to know that I was a hotelier as well, therefore I was a businessman and, you know, that I wasn't just banging a drum for fishermen, I had a scope of things to hopefully bring to the IFCA. (Isles of Scilly Fisherman and IFCA member, extract from interview April 2014)

Around the table in a committee meeting you are not meant to bring any particular viewpoint, or anything that will ostracise any member. So let's say if I was coming from a particularly conservation point of view, if I was always seen to be just pushing that, and not have the interests of the fishing industry at heart as well, that would be quite isolating. (Sussex IFCA member with a conservation background, extract from interview July 2014)

The Scottish corporatist approach denies many self-identifying publics the opportunity to participate in co-management. One such example is recreational fishers, who are not included in the IFG remit. Across the English IFCAs, in comparison, all the co-management organisations have recreational representation.

Another example of an emergent public that has been denied a say in the co-management of IFGs by the Scottish Government's selection criteria are local community charities and conservation groups. The charity Arran COAST has approximately 1600 members, mostly based on the island of Arran off the west coast of Scotland. For more than two decades, COAST, a community group, has researched and campaigned on behalf of the environmental health of their local inshore seas. In 2008, after a long campaign, Arran COAST achieved Scotland's first (and currently only) no-take zone, in an area of Lamlash Bay to the south of the island. In 2014, COAST spearheaded and provided scientific evidence for the South Arran marine protected area (MPA). South Arran is now the only community developed and nominated Scottish MPA in existence, which covers an area of more than 250 km² in the Firth of Clyde.

Despite this long-term involvement in the marine environment, which is an arguably strong justification to be considered a legitimate stakeholder in local marine management, the Scottish Government have consistently denied Arran COAST a seat in the south-west IFG committee. The thwarted potential of self-nomination means that many self-identified marine publics feel themselves excluded from the IFG co-management process. The doubling up of membership, and multiplications of power that this produces, has also led to feelings of internal exclusion for other members of IFGs, who feel that the national, large-scale fishermen's associations with seats across the IFGs have undue power in the co-management process. In the words of one IFG member: 'It's the same people being represented in all the IFGs. It's unfair, unreasonable and unworkable' (e-mail correspondence with IFG member, July 2014).

This limited inclusion means that the process of deliberative emergence is stilted in the IFG co-management fora. In comparison, members of the English IFCAs often reference this emergence, and are widely supportive of this aspect of group deliberative processes:

[G]radually it's shifted from being a Fisheries Committee which had a lot of input from fishermen to really something much bigger than that. It's more of a, I suppose it's gone into the wider community now ... they do consult more with the fishermen, but they also consult with the hobby fishermen. So everybody is treated the same really. (Isles of Scilly, Fisherman, not an IFCA member, extract from interview, April 2014)

Table 3. Comparative summary.

	IFGS	IFCAs
Empowerment	Can advance management recommendations to Marine Scotland	Statutory powers to make by-laws and enforce law subject to approval by Secretary of State
Deliberants' diversity	Low diversity: (1) Representative of fishermen' association (2) Owner, skipper, or crew of UK fishing vessel (not within fishermen's association) (3) Other representatives of legitimate commercial interests	High diversity: (1) Representative of Environment Agency (2) Representative of MMO (3) Representative of Natural England (4) Councillors (5) MMO appointees
External inclusion	Marine Scotland provides chair for each IFG and determines initial membership. Changes to membership will be made with the agreement of the Group, subject to review after 18 months. All members must be representatives of commercial fishing interests only.	Anyone acquainted with the needs and opinions of the fishing community in the district or has knowledge of environmental matters can apply to becoming an MMO nominee. Orders establishing IFCA district can specify appointment rules, subject to approval by Secretary of State.

We did have some quite healthy debates in terms of, you know, fishing versus various other kind of protection of wildlife particularly, and you can see the vested interest in fishermen. And I think it makes them look at things I think a bit more holistically rather than just being kind of narrowly focused on just kind of catching fish. (Sussex Local councillor and IFCA member, extract from interview, July 2014)

In respect of IFCAs ... I feel that we are excellent examples of “environmental democracy”, as can be gathered from, for example, our Annual Plan on our website showing we have a wide range of stakeholders who are involved in decision making and setting policy. (Northumberland IFCA, e-mail correspondence June 2015) (Table 3).

Implications

The above discussion of IFCAs and IFGs clearly shows that although both institutions are built on co-management premises, the IFCAs are more attuned to a pragmatist deliberative approach to democracy. This is because they are more empowered (e.g. they can make by-laws and have enforcement powers), include a wide range of stakeholders, and some of these stakes are allowed to emerge as such through processes of self-nomination that are not confined to a particular industry. Differently, the corporatist approach of IFGs, their purely consultative role, and the participation of the same individual heads of fishing associations in more than one IFG represent the problem of elite capture (Stack 2014). A small number of actors can exploit the procedural opening of the system in order to dominate decision making.

Although IFCAs are more in line with a pragmatist approach to democracy, there is nevertheless some room for improvement. This is clearly visible in relation to MMO (the national management body) nominees. The MMO's guidelines (2014) for IFCA candidates state that the application process is transparent, fair, and open, in line with the Nolan Principles (Committee on Standards of Public Life 1995). There are two phases in the selection process: applicants need to submit an application form, and then, if shortlisted, a local interview will take place. The application form is, however, a highly complex competency-based application that may put off many applicants. Also, MMO nominees are subject to a heavy form of vetting by the MMO and DEFRA, and there is no room for public scrutiny of the process. There is no duty to give reasons for the decision or to publicise it. Candidates can receive feedback if they request it, but this is not publicly available. Considering the emphasis on selecting the candidates based on their local knowledge and involvement, the opinion of the wider public could and should here operate as an important accountability check. Besides, the MMO guidelines do not include a review process to scrutinise MMO nominees' performance. However, as they hold a public office, their performance should be assessed to be in line with the accountability principle of the Nolan List. To compensate for this oversight, the MMO is now requesting existing IFCAs nominees who are close to the end of their mandate to step down and, if they so wish, re-nominate themselves.

Second, the fact that IFCAs members are partly chosen centrally and partly determined by local councils means that the members' selection process (with the exception of MMO nominees) does not maximise IFCAs' openness and democratic character. These weaknesses, coupled with the issue mentioned above of the need for the Secretary State's approval for local by-laws and exercise of enforcement powers, do not make IFCAs ideal embodiments of local empowerment and democracy. Overall, however, IFCAs more fully meet the three conditions necessary for democratic co-management, namely extent of actors' authority over decision-making (empowerment), extent of actors' diversity (membership), and the right to self-nomination (procedures for external inclusion), and are a better example of pragmatic deliberation than IFGs, which represent a very narrow interest group. Furthermore, the IFGs' self-determination due to the internal selection of new applicants could be seen as problematic because there are no mechanisms of external accountability.

The aim of the IFCAs is to achieve a balanced membership, with the MMO nominees chosen being those that bring to the deliberation table a variety of interests reflecting the economic, social, and environmental remit of the IFCAs. Considering IFCAs from a pragmatic deliberation viewpoint,

we have reached different conclusions from earlier academic critiques of the institutions. More specifically, Appleby and Jones (2012) argued that the involvement of commercial fishing and environmental interests in IFCAs was problematic from a constitutional viewpoint because of the conflict of interest between these bodies. However, such argument is based on a narrow understanding of stakeholder status and not on a deliberative understanding of democracy. At the core of deliberative democracy, there is the idea that a wide variety of interests should be included and that these are not fixed but are negotiated and transcended during the deliberative process. Conflicts of interest are more likely to occur if the decision-making process is conceived as a battleground between rigid interests rather than as a space setting the institutional conditions for personal and collective development.

Following Dewey, the conditions for this development must include the self-nomination of members of the emerging public. If Habermasian theories stress that deliberation must be as inclusive as possible, allowing all those affected to participate, they remain silent on the individuation processes of those affected when there are no clear interest groups to start with, but these emerge as problems occur. It is only with our reading of Dewey that we found an answer: inclusion of publics should be premised on self-nomination so that the affected interests can fully emerge through a process of self-reflection and positing in relation to a particular issue. Importantly, this requires personal motivation and commitment to deliberate. Finally, the co-management potential of these institutions can be fully realised only if they have authority to exercise decisions, if their opinions matter, and, in this sense, the classical co-management focus on empowerment remains a central point.

The above empirical examples show that self-nomination is a fundamental starting point for ensuring procedural justice in co-management, and a necessary prerequisite for the success and legitimacy of any deliberative process. The fisheries co-management literature, however, has not always fully taken this into account. Instead, it tends to focus on simply moving decision-making powers towards users at the local level, without any thought as to who has a 'right' to power, who might be excluded, and who should decide this. As the different approaches and outcomes of the IFG and IFCA co-management bodies outlined above show, the selection processes for co-managers have significant consequences for both democracy and justice.

Conclusion

We have offered a fresh take on fisheries co-management, drawing on deliberative democracy and pragmatist theory. We have argued that the

classical co-management literature, though it importantly puts local actors' empowerment centre stage by advocating the sharing of power between state and local users, pays insufficient attention to the way the *demos* involved in decision making is formed.

Habermas and Dewey have helped us to move from the traditionally scalar co-management approach to a process-based analysis, and to argue that environmental democracy needs to rest on pragmatic deliberation. Vitally, this must begin with the self-constitution of the co-manager as a deliberant through transparent and accountable processes of self-nomination that attempt to minimise obstacles such as elite capture. Without this, the outcomes of co-management risk being both undemocratic and ineffective. We have argued that there are three vital prerequisites for any co-management process to be truly democratic: level of empowerment (powers and duties of the institutions), extent of deliberants' diversity, and the right to self-nomination in order to limit external exclusion.

Using the example of the governance of inshore fisheries in the UK, we have shown how the three key elements of co-management identified (empowerment, inclusiveness of membership, and procedures allowing self-nomination) are more developed in England than they are in Scotland. Future studies could explore whether our findings can be validated empirically across all the IFCAs and IFGs, and if the same patterns occur in the co-management of other environments and natural resources, such as commonly owned forests, grasslands, and freshwater ecosystems.

Notes

1. Grant n. ES/K001043/1. PI: Margherita Pieraccini. See project website at: <http://www.ecologiesandidentities.com/>, last accessed 17 December 2014.
2. The IFG constitution is given as an appendix in the IFG management plans. See, for example, Clyde IFG Management Plan 2011 at: <http://www.scotland.gov.uk/Resource/0042/00422314.pdf>, [online] accessed 4 June 2015.

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